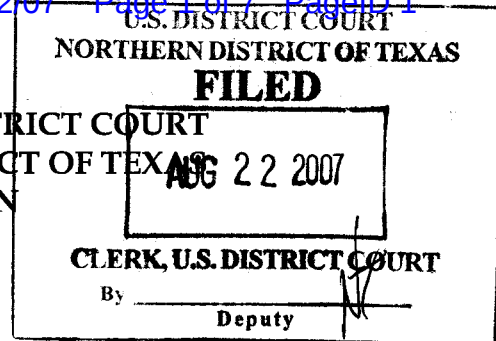


✓ N
ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



JOHNNY JOHNSON
Plaintiff,

vs.

BARR AIR PATROL, L.L.C.
Defendant.

§
§
§
§
§
§
§

CIVIL ACTION NO. _____

307 - CV 1444 - N

14269

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Johnny Johnson, hereinafter called "Plaintiff" or "Johnson" complaining of Defendant, Barr Air Patrol, L.L.C., hereinafter called "Defendant" or "Company", and for cause of action states the following:

I.
JURISDICTION

1. The Court has jurisdiction over this lawsuit pursuant to 28 U.S.C. §1331 and 29 U.S.C. §621 Age Discrimination in Employment Act ("ADEA"). The Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367 over Plaintiff's common-law cause of action.

II.
PARTIES AND SERVICE

2. Plaintiff, Johnny Johnson is a citizen of the United States and resides in Harris County, Texas.

3. Defendant, Barr Air Patrol, L.L.C., is a Texas Domestic Limited Liability Company and may be served with citation by serving its Registered Agent: Mike McDuffie, 5574 Sugar Hill, Houston, Texas 77056.

III.
FIRST CAUSE OF ACTION - AGE DISCRIMINATION

4. Plaintiff was employed by Defendant in Dallas County, Texas and the events complained of by Plaintiff took place in Dallas, County, Texas.

5. Plaintiff was a pilot for Defendant and flew air patrols inspecting pipe lines. Plaintiff was age 60 at the relevant time (June 26, 2006) when he was terminated by Defendant. Plaintiff was the oldest pilot of the Company and was terminated by a much younger chief pilot who had been hired only two (2) months prior to such termination. Plaintiff was replaced by a younger pilot after his termination and all pilots hired during Plaintiff's tenure with Defendant were younger than Plaintiff. The chief pilot was heard to say, by Plaintiff, that flying pipe line patrol was a job for young pilots.

6. Plaintiff was fired, without warning, for reasons that were false and known to be false by Defendant. Such was a pretext to hide Defendant's age discriminatory motive.

7. Plaintiff filed a complaint of age discrimination with the Equal Employment Opportunity Commission, ("EEOC") on March 16, 2007, complaining of age discrimination. Thereafter on or about August 13, 2007, Plaintiff received a Right to

Sue letter from the EEOC authorizing filing of this suit and same is attached hereto as Exhibit "A".

8. As a result of such discharge, Plaintiff has lost pay and benefits in the past and he will lose such in the future, for which he sues Defendant. Plaintiff states that reinstatement is not feasible.

9. Plaintiff further says that he is entitled to recover liquidated damages because the actions of Defendant were not made in good faith and were willful and intentional violations of the ADEA.

10. Plaintiff also seeks recovery of attorneys fees and costs.

IV.

SECOND CAUSE OF ACTION - DEFAMATION

11. Plaintiff also sues Defendant for slander and libel under the common-law of Texas because of the intentional false statements made by Defendant to potential employers of Plaintiff. Plaintiff states that potential employers were told by Defendant that he had violated FAA Rules & Regulations, which statements Defendant knew were false because of a letter given specifically to Defendant stating that no Regulations or Rules of the FAA had been violated. Such actions on the part of Defendant caused Plaintiff to lose employment opportunities and caused him mental anguish and emotional distress for which he sues Defendant.

12. Plaintiff also seeks exemplary damages and states that such statements made by Defendant were made with malice and intentionally designed to injure Plaintiff. Such actions have injured Plaintiff and he seeks exemplary damages for such acts.

V.

PRE-JUDGMENT INTEREST

13. Plaintiff seeks pre-judgment interest under both causes of action.

VI.

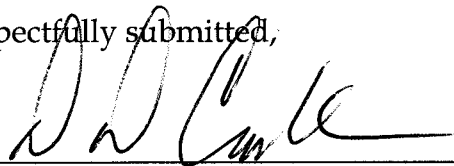
JURY DEMAND

14. Plaintiff seeks a trial by jury.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, Plaintiff recover all damages asserted above, attorney's fees, pre-judgment interest, exemplary damages, costs of court; and such other and further relief to which Plaintiff may be entitled at law or in equity.

Respectfully submitted,



Durwood Crawford

Texas Bar No. 05021000

Goins Underkofler Crawford & Langdon

1201 Elm Street, Suite 4800

Dallas, Texas 75270

Tel. (214) 969-5454

Fax. (214) 969-5902

Email: durwoodc@gucl.com

Attorneys for Plaintiff, Johnny Johnson

EXHIBIT "A"

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Johnny Johnson**
10306 Boca Court
Houston, TX 77099

From: **Dallas District Office**
207 S. Houston St.
3rd Floor
Dallas, TX 75202



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

450-2007-02067

Victor Galvan,
Investigator

(214) 253-2876**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.



While reasonable efforts were made to locate you, we were not able to do so.



You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

Enclosures(s)

On behalf of the Commission

Michael C. Fetzer,
Director

8/13/07
 (Date Mailed)

cc: **Mike Mc Duff**
HR
BARR AIR PATROL
1442 Airport Blvd. #11
Mesquite, TX 75181

Goins et al
Durwood Crawford/Atty
Renaissance Twr.
1201 Elm St. Ste 4800
Dallas, TX 75270

JS 44 (Rev. 10/06)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Johnny Johnson

DEFENDANTS

Barr Air Patrol, L.L.C.

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

Harris

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

Dallas

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Durwood Crawford, Goins, Underkofler, Crawford & Langdon, 1201
Elm Street, Ste 4800, Dallas, Texas 75270

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

- PTF DEF
- Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

- (Place an "X" in One Box Only)
- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

VI. CAUSE OF ACTION

Brief description of cause:

Age Discrimination

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) PENDING OR CLOSED

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

August 20, 2007

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____